

WASHINGTON STATE DEPARTMENT OF REVENUE



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Judge Upholds State Estate Tax

Olympia, Wash., Oct. 30, 2003 – A Thurston County Superior Court judge has upheld Washington’s estate tax by summary judgment, setting the stage for possible review of the issue by the Washington State Supreme Court.

Judge Daniel Berschauer ruled Wednesday that the state estate tax was based on the Internal Revenue Code as it existed on Jan. 1, 2001, and not a later version of the Code adopted as part of Congressional action to phase out the federal estate tax.

Attorneys for the Washington State Department of Revenue were defending the tax against a class-action lawsuit brought by the estates of Wylie M. Hemphill and others who argued that the state had to abide by the new Internal Revenue Code. The new Code phased out a credit against federal estate taxes for any state estate taxes paid, in effect eliminating those taxes over a four-year period.

State attorneys argued that the Washington estate tax continued to be based on the prior Internal Revenue Code until such time as the Washington State Legislature acts to update state law to reflect the new Code. Bills to do that failed in both the 2002 and 2003 legislative sessions.

Judge Berschauer issued an oral ruling that the state estate tax “unambiguously” was based on the older Internal Revenue Code. He also indicated that he would support direct review of his ruling by the Washington Supreme Court.

At stake is more than \$100 million per year in estate taxes beginning in 2005.

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